



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR - 9 1992

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

OSWER Directive 9610.14

MEMORANDUM

SUBJECT: UST Federal Field Citation Enforcement

FROM: David W. Ziegele, *David W. Ziegele*
Director
Office of Underground Storage Tanks

TO: Waste Management Division Directors,
Regions I-III and V-IX
Water Division Directors, Regions IV and X
Regional Counsel, Regions I-X

One year ago, on March 20, 1991, OUST issued the UST federal field citation guidance to the Regions. Today we issue the revised field citation guidance. During the past year we have been able to incorporate into this document the wisdom gained from actual field experience of issuing field citations in Regions VI, VIII, and X. In addition our office has received valuable input from the Regional UST attorneys, the Office of Enforcement, and the Office of General Counsel. Drafts of this revised guidance have undergone close scrutiny by the Regions throughout the year.

Attached is the revised UST federal field citation guidance. It includes short-form wordings of those violations for which field citations may be used, along with the suggested penalty amount for each violation. Regions are reminded that violations not a part of this list should not be cited with field citations. Also included with the guidance is a sample citation form. Regions must use this approved citation form or obtain approval for any Region-specific form from OUST, in writing.

This revised UST federal field citation guidance has received formal concurrence from the Office of Enforcement and the Office of General Counsel. Special thanks to these attorneys as well as to all other persons who participated in the extended process of improving this guidance. Please contact Jerry Parker of my staff (FTS 703 308-8884) with any questions or comments.

Attachment

UST/E/92-1

cc: Regional Branch Chiefs
Regional Program Managers
Regional UST Attorneys
Kathie A. Stein, OE
Mimi Newton, OE
Lisa K. Friedman, OGC
Charles Openchowski, OGC
OUST Management Team (w/o attachment)
OUST Desk Officers (w/o attachment)

United States
Environmental Protection
Agency

Office of
Solid Waste and
Emergency Response



DIRECTIVE NUMBER: 9610.14

TITLE: Guidance for Federal Field
Citation Enforcement

APPROVAL DATE: April 9, 1992

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ORIGINATING OFFICE: Office of Underground
Storage Tanks (OUST)

☒ **FINAL**

☐ **DRAFT**

STATUS:

REFERENCE (other documents):

OSWER Directive 9610.11 "UST/LUST Enforcement
Procedures Guidance Manual"

OSWER Directive 9610.12 "U.S. EPA Penalty Guidance
for Violations of UST Regulations"

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United States Environmental Protection Agency Washington, DC 20460		1. Directive Number 9610.14
EPA OSWER Directive Initiation Request		
2. Originator Information		
Name of Contact Person Jerry Parker	Mail Code OS-410(WF)	Office OUST
		Telephone Code 703-308 8884
3. Title Guidance for Federal Field Citation Enforcement		
4. Summary of Directive (include brief statement of purpose) Provides guidance to U.S. EPA Regional Offices on setting up and implementing a federal field citation program. Field citations represent a new enforcement tool to be used in certain situations where owners/operators of underground storage tanks violate UST regulations.		
5. Keywords underground storage tanks, enforcement, citation, penalty, settlement offer		
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b. Does It Supplement Previous Directive(s)? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes What directive (number, title) 9610.12		
U.S. EPA Penalty Guidance for Violations of UST Regulations		
7. Draft Level <input type="checkbox"/> A - Signed by AA/DAA <input checked="" type="checkbox"/> B - Signed by Office Director <input type="checkbox"/> C - For Review & Comment <input type="checkbox"/> D - In Development		

8. Document to be distributed to States by Headquarters?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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This Request Meets OSWER Directives System Format Standards.	
9. Signature of Lead Office Directives Coordinator <i>Beverly Thomas</i> Beverly Thomas, OUST Directives Coordinator	Date 4/9/92
10. Name and Title of Approving Official <i>David Siegel</i> David Siegel, Director, OUST	Date 4/9/92

EPA Form 1315-17 (Rev. 5-87) Previous editions are obsolete.

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**GUIDANCE FOR
FEDERAL FIELD CITATION
ENFORCEMENT**

**U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF UNDERGROUND STORAGE TANKS**

April 1992

GUIDANCE FOR FEDERAL FIELD CITATION ENFORCEMENT

I. Federal Enforcement

Overview

The Office of Underground Storage Tanks' (OUST) program approach is to build UST programs at the State level since States will be primarily responsible for the enforcement of UST regulations. Regions perform general compliance inspections at UST sites or take enforcement actions, generally in the place of or in conjunction with a State when the State lacks enforcement resources, and on Indian Lands or at Federal facilities. In these specific cases, the Regions must develop an enforcement strategy that addresses targeted violations while maximizing time and resources.

One enforcement option is the use of field citations, "traffic ticker"-styled citations issued on-site by inspectors, generally carrying a penalty. Field citations are currently being used by a number of environmental programs on the Federal, State, and local level, including UST programs. In the experience of many State and local UST enforcement programs, field citations are extremely useful in addressing many prevalent, clear-cut violations that are relatively easy to correct. Addressing these violations using established enforcement methods, such as formal administrative proceedings under 40 CFR Part 22, requires a greater commitment of staff time and resources, which may be difficult to obtain or which must compete with time and resources that staff directs toward releases or violations that are not appropriately addressed by the field citation program. When a citation program is properly designed, violators issued citations for clear-cut violations have greater incentive to correct problems and pay penalties than to contest. Thus, in appropriate circumstances, field citation enforcement is less resource-intensive than traditional methods of UST enforcement. Resources are saved as citations are issued on the spot, and preparation of formal legal documents and procedures, such as administrative appeals, are minimized.

Use of field citations will not displace existing enforcement tools, such as warnings and orders, but will provide the inspector with an alternative enforcement tool. OUST believes that a field citation program is a viable and useful tool for Federal enforcement and several Regions have expressed interest in adopting field citation enforcement programs.

UST program staff and legal counsel from several Regions participated in a workgroup effort to develop procedures for Federal enforcement using field citations. This guidance document is a result of that effort. It attempts to serve the workgroup participants' interest in using field citations in a variety of circumstances and address concerns that an enforcement program be fairly and uniformly applied across Regions. Some key components of the field citation program are identical from Region to Region,

such as the language of the citation. However, the flexibility provided in this guidance and the relationship between field citations and existing enforcement capabilities should provide considerable room for accommodating local needs. On this score, it is important to emphasize that field citation enforcement will not supplant existing enforcement options. Discretion to exercise existing options for warnings and other enforcement tools remains unchanged by the introduction of field citations, which should blend into Regional enforcement choices. Also, Regions will continue to select which violations or facilities need targeting, within the parameters of this guidance, based on local needs and subject to previously issued enforcement guidance. Finally, the availability of field citations should not diminish the Regions' efforts to assist States and localities in building UST enforcement programs.

Responsibilities of OUST

During the workgroup session, OUST agreed to provide the Regional offices with support in these specific areas:

- OUST has coordinated with the Office of General Counsel and the Office of Enforcement to develop a model citation format.
- OUST has developed this guidance, including a list of potential violations derived from the Federal UST regulations, to be addressed through the field citation program.
- OUST has made use of field citations consistent with the penalty policy (OSWER Directive 9610.12 "U.S. EPA Penalty Guidance for Violations of UST Regulations") and the Federal procedures manual (OSWER Directive 9610.11 "UST/LUST Enforcement Procedures Guidance Manual").
- OUST will assist in inspector training efforts. As the success of a field citation program depends upon the skills of inspectors, it is crucial that inspectors receive training in field citation enforcement techniques and specific guidance on when and how to use the citations. OUST has developed an inspector training manual to train Federal inspectors in issuing citations and performing related duties. OUST will help to tailor the manual to the specific needs of Regional programs, and will coordinate multi-Regional training efforts.

NOTE TO REGIONAL STAFF: Inspectors may also require training in the technical issues related to UST inspections; this training will need to be obtained prior to field citation training.

II. Regional Program Elements

Guidance for Regions is presented in the following sections. The guidance should be considered in the context of the Region's overall enforcement strategy and priorities.

Selecting Appropriate Violations

The Regions described a range of problems they would potentially address using field citations. In order for field citations to be useful in a range of situations, the Regions need the ability to determine which violations of the Federal UST regulations to address using field citations. Since field citations in various forms have been used effectively in diverse jurisdictions, this guidance provides a framework for allowing Regions to address different violations within the field citation effort. The guidance is intended to ensure that each of the Regions develops its list of appropriate violations judiciously and implements its program reasonably by providing a list of violations appropriate for field citations and guidelines for selection among violations. Each Region should select violations to be cited from violations included in this list (see attached). Regions may not expand the list of violations that can be cited in a field citation. Consistency among Regions will be further assured by training.

The following generally are appropriate criteria for selecting the violations to be cited:

- Select violations which are clear-cut and easily verifiable.
- Select violations which are easily correctable.
- Do not select those violations which occur in environmentally sensitive areas, for example, at USTs above drinking water sources.

Determining which violations are appropriate for a field citation program requires considerable discretion. Experience shows that field citation programs work most effectively in achieving compliance if the violations are clear-cut and the inspectors exercise little discretion in citing the violations. Established field citation programs have found that easily identifiable violations (i.e., "either they have it or they don't") require the least amount of inspector judgment in the field, making it easier to provide clear guidance to inspectors and facilitate consistency among inspectors. On the other hand, the Regions may believe that certain violations, while clear-cut, are very serious in terms of environmental harm threatened and require a more formal enforcement response. The list of violations appropriate for the field citation program, which accompanies this guidance, relieves the Regions of some of the burden of making these decisions. However, it is the responsibility of each Region to designate which of these violations will

be appropriate candidates for its field citation program given specific Regional needs and resources.

In selecting a preferred approach, a Region may choose to target a certain prevalent or high priority violation or violations. This may be a good strategy for a Region to use if a State program lacks enforcement authority or regulations in a certain program area and the Region needs to fill a key gap in coverage or send an important message to violators. However, if a Region is to be enforcing in the place of the State, the Region may find it advantageous to include all appropriate violations in the field citation enforcement program, as long as they meet the above-referenced criteria.

Guidance for When to Use Citations

This guidance establishes procedures for issuing citations, and describes some appropriate circumstances for inspectors to issue citations. Since the inspector is the one who must implement the program in the field, the Regions must clearly establish the extent of discretion allowed to inspectors in determining whether to issue field citations within general parameters set forth here. Field citations provide an additional enforcement tool, and inspectors must be instructed in how to respond when violations appropriate for using field citations are found.

The proper use of field citations must be measured against the backdrop of the Regions' existing authority to issue warnings or pursue other existing enforcement measures for all violations of UST requirements. Although the primary objective of any enforcement program is to achieve compliance, formal enforcement mechanisms, such as those found in 40 CFR Part 22, normally will be more appropriate in particular circumstances. These circumstances include, among others, instances involving repeat violations, facilities located in environmentally sensitive areas or where payment of a more significant penalty may be more effective in achieving EPA's enforcement goals. In the case of environmentally sensitive areas, for example, a Region should not use its field citation program for violations at facilities which may pose a serious environmental hazard because they are in an environmentally sensitive area. These areas may include sites above drinking water sources. Inspectors should try to determine before they arrive at a particular facility whether they are dealing with an environmentally sensitive location, and, therefore, whether a field citation should be used if certain violations which may pose a serious environmental threat are discovered. One way of doing this is to work closely with the State within which the violation exists, as it may have substantial knowledge and experience in delineating areas that are environmentally sensitive.

This guidance is intended to provide a framework for the inspector's discretionary use of the field citation enforcement option. Therefore, the guidance is phrased in terms of the action an inspector would take in the typical case, but leaves room for exception if the circumstances in the inspector's judgment so warrant.

The following discussion describes the three basic enforcement options available to address violations of UST requirements:

Warnings

- Although warnings can be useful as a first step in the enforcement process, Regional inspectors generally should consider issuing citations in all cases where violations are discovered. Field citations are designed to uniformly address certain violations and promote a quick resolution of the violation and assessment of a small penalty. Therefore, when a Region is inspecting a facility, inspectors should consider issuing a field citation rather than a warning for a violation or violations which the Region has determined may be an appropriate candidate for its field citation program.

Citations

There are several situations in which inspectors will typically issue citations:

- Inspectors may issue citations for as many violations as are identified at a site; there is no limit to the number of violations that may be cited at a single facility. However, if the number of violations found at a site exceeds "x" (a number set by each Region), the inspector should generally forego field citations and use more formal, existing enforcement methods instead.

Once a Region has selected its list of violations appropriate for the field citation program and trained inspectors in procedures for issuing field citations, inspectors may routinely issue field citations for all appropriate violations found at a facility. Each Region will have the discretion to place an upper limit on the number of violations that may be cited at one site. The threshold should be set below the point beyond which the number of violations, regardless of the nature of those violations, proves that a facility was seriously out of compliance and requires a more formal enforcement response. Even if the facility had only multiple recordkeeping violations, this approach could be taken in order to send a message to the regulated community. This number should also be near the point where a typical violator no longer has an incentive to correct the violations and pay the penalty instead of resisting compliance. At this point, a more formal enforcement response is likely to be more effective than use of field citations. As a general matter, a suggested threshold is between three and ten violations.

- During joint inspections, Regional inspectors should usually not cite for violations that are cited by the State inspector where State sanctions are at least equivalent.

As States are the primary enforcers in the program, Regions usually will take enforcement actions only in the circumstances noted in the first paragraph of this guidance document. Therefore, it is likely that during joint inspections Regional inspectors will defer to the State program's regulations or authorities and not cite for violations that State inspectors cite. Generally, this will be the case where State sanctions are at least equivalent with Federal sanctions. On the other hand, there may be cases where a field citation would serve an important Federal enforcement objective, for example, sending a signal to the regulated community that we take interest in a specific kind of violation. In these cases, a field citation or other Federal enforcement measure might reinforce the State's message.

- Inspectors will usually issue citations to first-time violators only. If upon follow-up inspection a cited violation has not been corrected, the inspector should generally use Part 22 procedures, or, if a later inspection uncovers a different violation, the inspector should not use a field citation.

Field citations are generally most appropriate for addressing first-time violators; if the same violations are found again during a second inspection, Part 22 enforcement procedures should be initiated. Limiting the use of field citations to first-time violators makes sense if it appears to the inspector that the citation and penalty have not convinced a violator to bring a facility into compliance and to keep it in compliance. The inspector should be guided by the goal of the field citation program, which is to achieve rapid and resource-efficient compliance, rather than to penalize owners and operators for regulatory violations. When conducting inspections, it is critical that the inspector fully conduct the inspection and thoroughly complete the inspection report. If a field citation is not issued because the violations are above the thresholds for field citations, or the field citation settlement form is not returned, the Agency may choose to pursue standard enforcement based on the inspection report. Therefore, while field citations may expedite the correction and penalty phases of enforcement, the quality and effort applied to the underlying inspection should not be abbreviated.

Standard Enforcement

If an inspector discovers not only violations that are appropriate for the field citation program, but other violations as well, the inspector should address all of the violations at the site using more formal, existing enforcement methods. As used in this guidance, more formal enforcement typically refers to the procedures for issuing administrative complaints/compliance orders (including those assessing civil penalties) and conducting the administrative enforcement process governed by 40 CFR Part 22, the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits ("Part 22" or "CROP"). CROP outlines the major steps in the administrative adjudication process and presents the various authorities and duties of Agency officials in the process. More formal

enforcement methods may also include issuance of corrective action orders pursuant to 40 CFR Part 24 or judicial enforcement of the UST requirements.

In selecting those violations which are appropriate for field citations, the Regions will, in effect, also be identifying violations which, because of their potential for environmental harm or other characteristics (i.e., not clear-cut), should be addressed using the more formal, existing enforcement mechanisms. The more formal enforcement methods may also be the appropriate response in some circumstances where field citations would otherwise be appropriate (for example, if the total number of individual violations which are appropriate for a field citation surpasses the threshold for multiple violations or are repeated). Another case where a clear-cut violation might be addressed by more formal enforcement is the case of a clear-cut but not easily correctable violation (e.g., a tank was not purged before being removed). In these cases, a field citation may not serve the goal of encouraging compliance and might appear to treat the violator mildly compared to penalties applicable under the penalty policy. In general, the Regions will need to assess how to maximize resources while bringing as many facilities into compliance as possible.

The following criteria should be considered by inspectors when issuing citations in the field:

- Field citations generally are inappropriate in environmentally sensitive areas, for example, at USTs above drinking water sources.
- Field citations generally are inappropriate for anyone other than first time violators.

This guidance is phrased so that inspectors will know what action to take in the typical case. Inspectors are not bound to follow this guidance, however, when in the exercise of their enforcement discretion they determine that deviation from this guidance will result in more effective compliance or a more efficient use of enforcement resources. This approach is consistent with the guidance found in other EPA penalty policies and procedures.

Guidance for Penalty Amounts

In order to ensure that penalties assessed by different Regions for the same violations are consistent, standard suggested penalty amounts have been set by this guidance. Consistency among Regions is important to achieve fairness in the treatment of the regulated community in Regional penalty assessments. In the case of multiple violations, penalties should be totaled. In general, field citation programs set penalty amounts according to the severity of each violation or category of violations. Penalties should be assessed per facility rather than per tank.

The size of the penalties attached to violations is important to the success of a field citation program. Penalties that are relatively high (e.g., greater than \$500 per violation) may discourage owners and operators from agreeing to settle. On the other hand, penalties need to be high enough to catch the attention of owners and operators. In general, the field citation program should operate optimally when the penalties are geared primarily to achieving compliance rather than to penalizing violators.

There is no predetermined cap on the cumulative amount of penalties assessed. However, there is a natural cap to the extent that each Region will be foregoing issuing field citations if the number of citable violations at a site exceeds a number fixed by the Region (see preceding section). The Region may want to consider the practical issues underlying a cap on the total cumulative amount of penalties that may be incurred by a single owner or operator, i.e., keeping the amount relatively low might encourage more settlements. This determination is a matter of judgement, and, as the program is implemented, experience.

Form of the Citation

While each Region will have considerable discretion in tailoring its field citation program within the boundaries set forth in this guidance, the Regions must use the approved field citation or obtain approval for any Region-specific citation form from OUST in writing, after first having obtained approval of Regional Counsel. OUST will obtain concurrence for any proposed change from both the Office of General Counsel and the Office of Enforcement before authorizing such change. This approach will ensure that the field citations used are legally supportable and designed to accommodate the program elements described in this guidance. In addition, use of a standard citation form will guarantee some uniformity across Regions in the issuance of field citations.

The field citation developed by OUST is entitled "Expedited Enforcement Compliance Order and Settlement Agreement". The field citation represents the issuance of an order pursuant to RCRA §9006 to address violations listed in RCRA §9006(d), coupled with a short-form settlement agreement. Each Region, as it determines is appropriate, must delegate to individual inspectors the authority necessary to issue the citation form. The violator is ordered to correct the violation and given an opportunity to resolve the enforcement action expeditiously by agreeing to correct the violation and by settling for a lesser penalty amount than might be assessed according to the penalty policy if formal administrative or judicial proceedings were initiated. The lower penalty assessment reflects the time and expense saved by the Agency over that normally incurred in pursuing more formal enforcement methods; it also compromises the size of the fine EPA could potentially collect. If the violator does not accept the settlement agreement within the time provided in the field citation, the compliance order is automatically withdrawn. The Agency's policy is then to pursue other enforcement actions for the violations cited. The violator has only two options: accept the field

citation or risk more formal enforcement proceedings. If a violator refuses to accept the terms of the field citation or if it is determined that a violator has not fully complied with the terms of a signed settlement agreement, follow-up enforcement should be initiated by EPA. Such follow-up enforcement should be more stringent than the field citation settlement terms in order to achieve compliance and ensure the integrity of the field citation program.

Hearing Requirements

Subtitle I of RCRA provides for an opportunity for a hearing where an order is issued -- the hearing process is outlined in Part 22. As described in the foregoing section, the field citation has been designed as a compliance order and short-form settlement agreement.

The field citation compliance order is not an adjudicatory proceeding under 40 CFR Part 22. The violator has no right to a hearing under Part 22, since those procedures have not been invoked through issuance of a field citation. Violators who accept the terms of the settlement offer will have expressly waived their rights to a public hearing under § 9006 of RCRA. If the violator does not accept the settlement offer, the compliance order is withdrawn.

A Region initiating administrative actions against a violator should follow the Part 22 procedures if a violator forgoes the settlement offered through the field citation process. The Federal procedures guidance (OSWER Directive 9610.11 "UST/LUST Enforcement Procedures Guidance Manual") describes appropriate procedures in detail. Judicial enforcement may also be appropriate in certain instances, in which case the Region should follow appropriate referral procedures for judicial actions.

Training

This guidance is intended to provide overall direction for establishing Regional field citation programs. As such, the role of the guidance is to enunciate the general principles that should underlie an appropriately designed field citation program; further details not contained in this guidance will be developed and transmitted to program staff through subsequent training or guidance.

SELECTED VIOLATIONS OF FEDERAL UNDERGROUND STORAGE TANK REGULATIONS

Regulatory Citation	Violation	Violations Appropriate for Field Citations (Penalty Amount)
SUBPART B -- UST SYSTEMS: DESIGN, CONSTRUCTION, INSTALLATION, AND NOTIFICATION		
	§280.20 Performance standards for new UST systems	
§280.20(a)(1)	Installation of an improperly constructed fiberglass-reinforced plastic tank	
§280.20(a)(2)	Installation of an improperly designed and constructed metal tank that fails to meet corrosion protection standards	
§280.20(a)(2)(i)	Installation of a metal tank with unsuitable dielectric coating	
§280.20(a)(2)(ii)	Installation of an improperly designed cathodic protection system for a metal tank	
§280.20(a)(2)(iii)	Improper installation of cathodic protection system for a metal tank	
§280.20(a)(2)(iv)	Improper operation and maintenance of tank cathodic protection system	
§280.20(a)(3)	Installation of an improperly constructed steel-fiberglass-reinforced-plastic tank	
§280.20(b)(1)	Installation of improperly constructed fiberglass-reinforced plastic piping	
§280.20(b)(2)	Failure to provide any cathodic protection for metal piping	
§280.20(b)(2)(i)	Installation of piping with unsuitable dielectric coating	
§280.20(b)(2)(ii)	Installation of improperly designed cathodic protection for metal piping	
§280.20(b)(2)(iii)	Improper installation of cathodic protection system for piping	
§280.20(b)(2)(iv)	Improper operation and maintenance of cathodic protection system for metal piping	
§280.20(c)	Failure to use a spill prevention system and an overfill prevention system	\$300
§280.20(c)(1)(i)	Installation of inadequate spill prevention equipment in a new tank	\$150
§280.20(c)(1)(ii)	Installation of inadequate overfill prevention equipment in a new tank	\$150
§280.20(d)	Failure to install tank in accordance with accepted codes and standards	\$150
§280.20(d)	Failure to install piping in accordance with accepted codes and standards	\$150
§280.20(e)	Failure to provide any certification of UST installation	\$150

SELECTED VIOLATIONS OF FEDERAL UNDERGROUND STORAGE TANK REGULATIONS (continued)

Regulatory Citation	Violation	Violations Appropriate for Field Citations (Penalty Amount)
SUBPART B -- UST SYSTEMS: DESIGN, CONSTRUCTION, INSTALLATION, AND NOTIFICATION (continued)		
	280.21 Upgrading of existing UST systems	
§280.21(b)	Failure to meet all tank upgrade standards	\$300
§280.21(b)(1)(I)	Improper installation of interior lining for tank upgrade requirements	
§280.21(b)(1)(II)	Failure to meet interior lining inspection requirements for tank upgrade	
§280.21(b)(2)(i)	Failure to ensure that tank is structurally sound before installing cathodic protection	
§280.21(b)(2)(ii)	Failure to provide any monthly monitoring of cathodic protection for tank upgrade requirement	
§280.21(b)(2)(II)	Failure to provide continuous monthly monitoring of cathodic protection for tank upgrade requirement	
§280.21(b)(2)(III)	Failure to meet tightness test requirements for a tank upgraded with cathodic protection	
§280.21(b)(2)(IV)	Failure to meet requirements for testing for corrosion holes for a tank upgraded with cathodic protection	
§280.21(c)	Failure to install any cathodic protection for metal piping upgrade requirements	
§280.21(c)	Failure to meet tightness test requirements for cathodically protected metal piping	
§280.21(d)	Failure to provide spill or overfill prevention system for an existing tank	\$300
	280.22 Notification requirements	
§280.22(a) or §280.22(b)	Failure to notify state or local agency within 30 days of bringing an UST system into use	\$300
	Failure to notify designated state or local agency of existing tank	\$300
§280.22(c)	Failure to submit a separate notification form identifying all known tanks for each site where tanks are located	\$150

SELECTED VIOLATIONS OF FEDERAL UNDERGROUND STORAGE TANK REGULATIONS (continued)

Regulatory Citation	Violation	Violations Appropriate for Field Citations (Penalty Amount)
SUBPART B -- UST SYSTEMS: DESIGN, CONSTRUCTION, INSTALLATION, AND NOTIFICATION (continued)		
§280.22(e)	Failure to certify on notification form UST system requirements of proper installation, cathodic protection, financial responsibility, and release detection	\$150
§280.22(f)	Failure to provide installer certification of compliance with installation requirements on notification form	\$150
§280.22(g)	Failure to inform tank purchaser of notification requirements	
SUBPART C -- GENERAL OPERATING REQUIREMENTS		
	280.30 Spill and overfill control	
§280.30(a)	Failure to take necessary precautions to prevent overfill/spillage during the transfer of product	\$300
§280.30(b)	Failure to report a spill/overfill	
§280.30(b)	Failure to investigate and clean up a spill/overfill	
	280.31 Operation and maintenance of corrosion protection	
§280.31(a)	Failure to operate and maintain corrosion protection system continuously	\$150
§280.31(b)	Failure to ensure proper operation of cathodic protection system	\$150
§280.31(c)	Failure to inspect impressed current systems every 60 days	\$150
§280.31(d)	Failure to maintain records of cathodic protection inspections	\$50
	280.32 Compatibility	
§280.32	Failure to ensure that UST system is made of or lined with materials compatible with substance stored	

SELECTED VIOLATIONS OF FEDERAL UNDERGROUND STORAGE TANK REGULATIONS (continued)

Regulatory Citation	Violation	Violations Appropriate for Field Citations (Penalty Amount)
SUBPART C -- GENERAL OPERATING REQUIREMENTS (continued)		
	280.33 Repairs allowed	
§280.33(a)	Failure to repair UST system in accordance with accepted codes and standards	\$150
§280.33(b)	Failure to repair fiberglass-reinforced UST in accordance with accepted codes and standards	\$150
§280.33(c)	Failure to replace metal piping that has released product	\$150
§280.33(c)	Failure to repair fiberglass-reinforced piping in accordance with manufacturers specifications	
§280.33(d)	Failure to ensure that repaired tank systems are tightness tested within 30 days of completion of repair	\$300
§280.33(e)	Failure to test cathodic protection system within 6 months of repair of an UST system	\$150
§280.33(f)	Failure to maintain records of each repair to an UST system	\$50
	280.34 Reporting and recordkeeping	
(For violations of reporting and recordkeeping, see appropriate regulatory section (e.g., reporting of releases will be under Subpart D)).		
§280.34(a)(1) or §280.34(a)(1)	Failure to submit notification for UST system Failure to submit certification of a new installation with notification form	\$300 \$300
§280.34(b)(1)	Failure to maintain analysis of site corrosion potential if corrosion protection equipment is not used	\$50
§280.34(b)(2)	Failure to maintain corrosion protection equipment operation documentation	\$50
§280.34(b)(3)	Failure to maintain documentation of UST system repairs	\$50
§280.34(b)(4)	Failure to maintain documentation of compliance with release detection requirements	\$50
§280.34(c)(1) or §280.34(c)(2)	Failure to maintain records at UST site and immediately available for inspection Failure to maintain records at a readily available alternative site	\$50 \$50

SELECTED VIOLATIONS OF FEDERAL UNDERGROUND STORAGE TANK REGULATIONS (continued)

Regulatory Citation	Violation	Violations Appropriate for Field Citations (Penalty Amount)
SUBPART D -- RELEASE DETECTION		
	280.40 General requirements for all UST systems (Applies only to petroleum tanks)	
§280.40(a)	Failure to provide adequate release detection method	\$300
§280.40(b)	Failure to notify implementing agency when release detection indicates release	
§280.40(c)	Failure to provide any release detection method by phase-in date	\$150
§280.40(d)	Failure to close any UST system that cannot meet release detection requirements	\$300
	280.41 Requirements for petroleum UST systems	
§280.41(a)	Failure to monitor tanks at least every 30 days, if appropriate	\$300
or §280.41(a)(1)	Failure to conduct tank tightness testing every 5 years, if appropriate	\$300
or §280.41(a)(2)	Failure to conduct annual tank tightness testing, if appropriate	\$300
§280.41(b)(1)(i)	Failure to equip pressurized piping with automatic line leak detector	\$300
§280.41(b)(1)(ii)	Failure to have annual tank tightness test or perform monthly monitoring on pressurized piping	\$300
§280.41(b)(2)	Failure to conduct line tightness test or use monthly monitoring on suction piping	\$300
	280.42 Requirements for hazardous substance UST systems	
§280.42(a)	Failure to provide release detection for an existing hazardous substance tank system	
§280.42(b)	Failure to provide adequate release detection for a new hazardous substance UST system	
§280.42(b)(1)	Failure to provide adequate secondary containment of tank for a hazardous substance UST	
§280.42(b)(2)	Failure to provide adequate double-walled tank/adequate lining for a hazardous substance UST	
§280.42(b)(3)	Failure to provide adequate external liners for a hazardous substance UST	
§280.42(b)(4)	Failure to provide adequate secondary containment of piping for a hazardous substance UST	

SELECTED VIOLATIONS OF FEDERAL UNDERGROUND STORAGE TANK REGULATIONS (continued)

Regulatory Citation	Violation	Violations Appropriate for Field Citations (Penalty Amount)
SUBPART D -- RELEASE DETECTION (continued)		
	280.43 Methods of release detection for tanks	
§280.43(a)	Inadequate operation or maintenance of inventory control	\$300
§280.43(a)(1)-(6)		\$50 each
§280.43(b)	Inadequate operation or maintenance of manual tank gauging	\$300
§280.43(b)(1)-(4) [*]		\$50 each
§280.43(c)	Inadequate operation or maintenance of tank tightness testing	\$150
§280.43(d)	Inadequate operation or maintenance of automatic tank gauging	\$300
§280.43(d)(1)-(2)		\$150 each
§280.43(e)	Inadequate operation or maintenance of vapor monitoring	\$300
§280.43(e)(1)-(7) [†]		\$150 each
§280.43(f)	Inadequate operation or maintenance of ground-water monitoring	\$300
§280.43(f)(1)-(8) [‡]		\$150 each
§280.43(g)	Inadequate operation or maintenance of interstitial monitoring	\$300
	280.44 Methods of release detection for piping	
§280.44	Failure to provide any release detection for underground piping	\$300
§280.44(a)	Failure to provide adequate line leak detector system for underground piping	\$150
or		
§280.44(b)	Failure to provide adequate line tightness testing system for underground piping system	\$150
§280.44(c)	Inadequate use of applicable tank release detection methods	\$150

^{*} If citing more than 3 subsections, cite instead §280.43(b) or §280.41(a)

[†] If citing more than 1 subsection, cite instead §280.43(e)

[‡] If citing more than 1 subsection, cite instead §280.43(f)

SELECTED VIOLATIONS OF FEDERAL UNDERGROUND STORAGE TANK REGULATIONS (continued)

Regulatory Citation	Violation	Violations Appropriate for Field Citations (Penalty Amount)
SUBPART D -- RELEASE DETECTION (continued)		
	280.45 Release detection recordkeeping	
§280.45	Failure to maintain records of release detection monitoring	\$150
§280.45(a)	Failure to document all release detection performance claims for 5 years after installation	\$50
§280.45(b)	Failure to maintain results of sampling, testing or monitoring for release detection for at least 1 year or failure to retain results of tightness testing until next test is conducted	\$50
§280.45(c)	Failure to document calibration, maintenance, and repair of release detection	\$50
SUBPART E -- RELEASE REPORTING, INVESTIGATION, AND CONFIRMATION		
	280.50 Reporting of suspected release	
§280.50(a)-(c)	Failure to report a suspected release within 24 hours to the implementing agency	
	280.52 Release investigation and confirmation steps	
§280.52(a)-(b)	Failure to investigate and confirm a release (if appropriate) using accepted procedures	
	280.53 Reporting and cleanup of spills and overfills	
§280.53(a)	Failure to report a spill/overfill (if appropriate) to implementing agency within 24 hours (or other specified time period)	
§280.53(b)	Failure to contain and immediately clean up a spill/overfill of less than 25 gallons	
§280.53(b)	Failure to contain and immediately clean up a hazardous substance spill/overfill	

SELECTED VIOLATIONS OF FEDERAL UNDERGROUND STORAGE TANK REGULATIONS (continued)

Regulatory Citation	Violation	Violations Appropriate for Field Citations (Penalty Amount)
SUBPART F -- RELEASE RESPONSE AND CORRECTIVE ACTION		
§280.61	Failure to take initial response actions within specified time period after a release is confirmed	
§280.62	Failure to submit report on initial abatement measures within 20 days (or other specified time) of release confirmation	
§280.63	Failure to submit report on initial site characterization within 45 days (or other specified time) of release confirmation	
§280.64	Failure to submit report on free report removal within 45 days (or other specified time) of release confirmation	
SUBPART G -- OUT-OF-SERVICE UST SYSTEMS AND CLOSURE		
	280.70 Temporary closure	
§280.70(a)	Failure to continue operation and maintenance of corrosion protection system in a temporarily closed tank system	\$150
§280.70(a)	Failure to continue operation and maintenance of release detection in a temporarily closed tank system	\$300
§280.70(b)	Failure to comply with temporary closure requirements for a tank system for 3 or more months	\$300
§280.70(b)(1)-(2)		\$150 each
§280.70(c)	Failure to permanently close or upgrade a temporarily closed tank system after 12 months	
	280.71 Permanent closure and changes-in-service	
§280.71(a)	Failure to notify implementing agency of a closure or change-in-service	
§280.71(b)	Failure to remove all liquids and sludges for tank closure	
§280.71(b)	Failure to remove closed tank from the ground or fill tank with an inert solid for tank closure	
§280.71(c)	Failure to empty and clean tank system and conduct a site assessment prior to a change-in-service	

SELECTED VIOLATIONS OF FEDERAL UNDERGROUND STORAGE TANK REGULATIONS (continued)

Regulatory Citation	Violation	Violations Appropriate for Field Citations (Penalty Amount)
SUBPART G -- OUT-OF-SERVICE UST SYSTEMS AND CLOSURE (continued)		
	280.72 Assessing the site at closure or change-in-service	
§280.72(a)	Failure to measure (if required) for the presence of a release before a permanent closure	
§280.72(b)	If contaminated soil, contaminated ground water, or free product is discovered, failure to begin corrective action	
	280.74 Closure records	
§280.74	Failure to maintain closure records for at least 3 years	\$300
§280.74	Failure to maintain change-in-service records for at least 3 years	\$300
SUBPART H -- FINANCIAL RESPONSIBILITY		
§280.93(a)	Failure to comply with financial responsibility requirements by the required phase-in time	
§280.93(a)(1)-(2)	Failure to meet the requirement for per-occurrence coverage of insurance.	
§280.93(b)(1)-(2)	Failure to meet the requirement for annual aggregate coverage of insurance.	
§280.93(f)	Failure to review and adjust financial assurance after acquiring new or additional USTs	
§280.94	Use of an unapproved mechanism or combination of mechanisms to demonstrate financial responsibility	
§280.95	Use of falsified financial documents to pass financial test of self-insurance	
§280.106(a)(1)	Failure to report evidence of financial responsibility to the implementing agency within 30 days of detecting a known or suspected release	
§280.106(a)(2)	Failure to report evidence of financial responsibility to the implementing agency when new tanks are installed	
§280.106(b)	Failure to report evidence of financial responsibility to the implementing agency if the provider becomes incapable of providing financial assurance and the owner or operator is unable to obtain alternate coverage within 30 days.	
§280.107	Failure to maintain copies of the financial assurance mechanism(s) used to comply with financial responsibility rule and certification that the mechanism is in compliance with the requirements of the rule at the UST site or place of business	

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION ____, MAIN STREET, USA
EXPEDITED ENFORCEMENT
COMPLIANCE ORDER AND SETTLEMENT AGREEMENT

PART I: COMPLIANCE ORDER

COMPLIANCE ORDER NO. _____

On _____ Time _____
(Date of Violation) (a.m. or p.m.)

At _____
(Name of Facility)

(Address of Facility)

Facility Identification Number _____

Name of Owner, Operator or
On-site Representative _____
(Circle one)

(Address of Owner, Operator, or On-Site Representative)

An authorized representative of the United States Environmental Protection Agency (EPA) inspected this facility to determine compliance with underground storage tank regulations promulgated under Subtitle I of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6912 et seq.). During this inspection, the following violations of underground storage tank regulations were found, with corresponding penalty amounts:

40 CFR _____ Penalty \$ _____

Nature of Violation: _____

40 CFR _____ Penalty \$ _____

Nature of Violation: _____

40 CFR _____ Penalty \$ _____

Nature of Violation: _____

Penalty Total \$ _____

The owner or operator of the above facility is hereby ordered to correct the violations and pay the penalties described above.

This Compliance Order is not an adjudicatory proceeding under 40 CFR Part 22, the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, but is issued solely with reference to the Settlement Agreement in Part II of this form. If the Settlement Agreement in Part II is not returned in correct form by the owner or operator within 30 days of the date of signature below by the Authorized Representative of EPA, this Compliance Order is hereby withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the above or any other violations.

I have personally observed the above violations and find the owner or operator in violation of the above-referenced UST regulations.

Date:

(Signature of Authorized Representative of EPA)

I hereby acknowledge receipt of this Compliance Order and Settlement Agreement.

Date:

(Signature of Owner, Operator or On-site Representative)

PART II: SETTLEMENT AGREEMENT

The United States Environmental Protection Agency (EPA) offers this Settlement Agreement under its expedited enforcement procedures in order to settle the violations found in the Compliance Order in Part I of this form subject to the following terms and conditions:

The Owner or Operator signing below certifies, under civil and criminal penalties for making a false submission to the United States Government, that Owner or Operator has corrected the violation(s) and enclosed a certified check for \$_____ in payment of the full penalty amount, as described in the Compliance Order.

Upon EPA final approval of this Settlement Agreement, EPA will take no further action against the Owner or Operator for the violations described in the Compliance Order. EPA does not waive any enforcement action by EPA, the State where the facility is located or any local agencies for any other past, present or future violations of the underground storage tank requirements or any other violations under any other statute not described in the Compliance Order.

Also, upon EPA final approval of this Settlement Agreement, the Owner or Operator waives the opportunity for a public hearing pursuant to Section 9006 of the Resource Conservation and Recovery Act.

This Settlement Agreement is binding on the EPA and the Owner or Operator signing below. The Owner or Operator signing below consents to EPA's final approval of this Settlement Agreement without further notice. This Settlement Agreement is effective upon EPA's final approval below. Upon final approval, EPA shall mail a copy of the approved Settlement Agreement to the Owner or Operator signing below.

Final approval of the Settlement Agreement is in the sole discretion of the Regional Administrator, Region ____, EPA, or authorized delegate.

SIGNATURE BY OWNER OR OPERATOR:

Name (print) _____

Title (print) _____

Signature _____ Date: _____

FINAL APPROVAL BY EPA:

Name (print) _____

Title (print) _____

Signature _____ Date: _____

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION ____, MAIN STREET, USA
EXPEDITED ENFORCEMENT
COMPLIANCE ORDER AND SETTLEMENT AGREEMENT

INSTRUCTIONS

The United States Environmental Protection Agency has authority under Section 9006 of the Resource Conservation and Recovery Act to issue compliance orders and pursue civil penalties for violations of underground storage tank regulations. However, the EPA encourages the expedited settlement of easily verifiable violations of underground storage tank requirements, such as the violations cited in the Expedited Enforcement Compliance Order and Settlement Agreement for which these instructions are provided, by agreeing to these settlement terms that include expedited correction of the violation and payment of penalties.

You may resolve the cited violations quickly by signing and returning the Settlement Agreement and paying the penalty amount within 30 days of the issuance of the Compliance Order. You must correct the violations within 30 days of the issuance of the Compliance Order. EPA, at its discretion, may grant one 30 day extension for the period to come into compliance where the owner or operator satisfactorily demonstrates that it is technically infeasible or impracticable to achieve compliance within 30 days. The Settlement Agreement is binding on EPA and the Owner or Operator upon EPA final approval. Upon EPA final approval of the Settlement Agreement, a copy of which will be returned to you, EPA will take no further action against you for these violations. EPA will not accept or approve any Settlement Agreement returned more than 30 days after the date of the Compliance Order unless an extension has been granted by EPA. This Compliance Order is not an adjudicatory proceeding under 40 CFR Part 22, the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, but is issued solely with reference to the Settlement Agreement in Part II of this form.

If you do not return the Settlement Agreement with payment of the penalty amount 30 days after issuance, unless an extension has been granted by EPA, the Compliance Order will be withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the above or any other violations. Failure to return the Settlement Agreement within the approved time does not relieve you of the responsibility to comply fully with the regulations, including correcting the violations that have been specifically identified by the inspector. If EPA pursues administrative enforcement measures in order to correct the violation(s) or to seek penalties, you will receive instructions describing your rights under the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits (40 CFR Part 22).

You are required under the Settlement Agreement to certify that you have corrected the violations found in the Compliance Order and paid the penalty amount. The payment for the penalty amount must be in the form of a certified check payable to the "Treasurer of the United States of America," with the number of the Compliance Order written on the check.

The Settlement Agreement and copy of the check shall be sent to:

Underground Storage Tank Program
U.S. Environmental Protection Agency
Region __
Main Street
USA

Payment of the penalty amount shall be sent to:

U.S. Environmental Protection Agency
Region __
P.O. Box __
Main Street
USA

By the terms of the Settlement Agreement, and upon EPA's final approval of the Settlement Agreement, you waive the opportunity for a public hearing pursuant to Section 9006 of the Resource Conservation and Recovery Act. EPA will treat any response to the citation, other than acceptance of the Settlement Offer, as an indication that the recipient is not interested in pursuing this expedited settlement procedure.

Final approval of the Settlement Agreement is at the sole discretion of the Regional Administrator, Region ____, EPA, or authorized delegate.

If you have any questions, you may contact the EPA Regional Office of Underground Storage Tanks at _____.